IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No.1849 of 2001

1. The Land Acquisition Officer and
   Special Tahsildar,
   Land Acquisition,
   Neighbourhood Scheme,
   Namakkal, Salem District.

2. The State of Tamil Nadu,
   rep. by Commissioner and
   Secretary to Government,
   Housing and Urban Development,
   Fort St. George Madras-9. ... Appellants

Vs.

1.S.Jayakumar

2.S.Balakumar

3.S.Sundararajan

4.The Subordinate Judge,
   Salem. ... Respondents

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 31.01.1997 made in W.P.No.9619 of 1987.

WP NO. 9619 OF 1987

The petition presented to this Court under Article 226 of Constitution of India to issue a writ of certiariafied call for the record of the respondents as per notification under Section 4 (1) issued in G.O. Ms. No. 371 Housing and urban Development Department dated 03.06.1961 and published in the Tamil Nadu Gazette dated 12.08.1981 and the Declaration under 6 issued in G.O. NO. 449 Housing and urban Devekionment dated 12.06.1984 and published in the Tamil Nadu Gazette dated 14.06.1984 quash the same in so

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far as the lands of the petitioners and their one fourth share in the common well in S.NO. 88/2 (5 cents) by the issue of a writ of certiorarior any other appropriate writ, order of direction and stay all further proceedings pursuant to the said notification and declaration including all further proceedings in L.A.O.P. NO. 26 of 1987 pursuant to the Award dated 19.09.1986 dispense with the production of Gazette Notification under Section 4 (1) and Declaration under sec 6 for the present;

For Appellants : Mr.M.Dhandapani,
Addl. Government Pleader
For Respondents : No appearance.

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal has been filed against the order of the learned single Judge dated 31.01.1997 made in WP No.9619 of 1987 in and by which the learned Single Judge quashed the acquisition proceedings and allowed the writ petition as prayed for.

2. Heard the learned Additional Government Pleader for appellants. Respondents 1 to 3 though duly served notice in this appeal, they have not chosen to engage a counsel.

3. Respondents 1 to 3 herein/writ petitioners have filed the writ petition questioning the acquisition proceedings initiated by the Housing and Urban Development Department. The challenge relates to 4(1) notification and the declaration issued under Section 6 of the Land Acquisition Act, etc. Official respondents have also filed a detailed counter affidavit highlighting their stand.

4. The learned Single Judge, by the impugned order, after narrating the factual details as stated in the affidavit and the counter affidavit, in the concluding paragraph, after stating that " the enquiry under Section 5-A of the Act has not been properly conducted", quashed the entire acquisition proceedings and allowed the writ petition.

5. As stated earlier, though the petitioners have raised several contentions, likewise the respondents have also raised objections in their counter affidavit, the impugned order does not disclose the reason for quashing the acquisition proceedings except stating that the enquiry under Section 5-A of the Act has not been properly

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conducted. On going through the particulars furnished in the counter affidavit before the learned Single Judge, we are unable to accept the conclusion of the learned Single Judge. In a matter like this, when the details are available, it is but proper to advert the factual details with reference to the provisions of the Land Acquisition Act and the Rules made therein and arrive at a conclusion one way or other. Such recourse has not been followed while quashing the entire acquisition proceedings.

6. In such circumstances, in view of the materials available in the counter affidavit, we are of the view that the writ petition has to be re-heard. On this ground, the order passed by the learned Single Judge dated 31.01.1997 is set aside. Inasmuch as the writ petition is of the year 1987, the Office is directed to list the W.P.No.9619 of 1987 before the appropriate Court within a period of two weeks from today for final hearing.

7.The writ appeal is allowed on the above terms. No costs.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Land Acquisition Officer and
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2. The Commissioner and
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   State of Tamil Nadu,
   Housing and Urban Development,
   Fort St. George Madras-9.

+ one cc to the Government Pleader sr no. 25137

AK(CO)
NM(20.06.2006)

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